IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 104 OF 2005

Chandrakant B. Lokhande ...Petitioner

Versus

Maharashtra State Road
Transport Corporation (Pune Divn) ...Respondent

.....

Mr. Dilip Bodake, counsel for Petitioner

.....

CORAM: B. H. MARLAPALLE, J.

DATED: 20TH JANUARY, 2005

P.C.:-

1. Heard Mr. Bodake, the learned counsel for the petitioner who while working as a conductor with the respondent Corporation faced disciplinary action. On 24.4.2002 while he was on duty on Pune to Manchar bus, the flying squad stopped his bus and checked the cash as well as the tickets issued to the passengers and during the course of this surprise checking, an amount of Rs.13/- was found short with the petitioner and it was noted that from one passenger, petitioner had collected Rs.28/- but issued a ticket of Rs.18/- only. He was, therefore, charge-sheeted and a domestic enquiry was conducted against him. The Enquiry Officer found him guilty and ultimately a show cause notice dated 27.2.2003 was issued to him.

On receipt of the said show cause notice, he approached the Labour Court by filing complaint (ULP) No.52 of 2003. The learned Judge of the Labour Court, Pune was pleased to dismiss the complaint vide his judgment and order dated 6.10.2004. The petitioner, therefore, approached the Industrial Court in Revision Application (ULP) No. 83 of 2004 and the same came to be dismissed by the learned Member of the Industrial Court at Pune on 4.12.2004. Hence, this petition.

2. It is evident from the orders passed by both the courts below that the petitioner had accepted short fall of Rs.13/- and the statement of passenger by name Shri. Arun Nighot who was travelling from Pune to Manchar showed that he had given an amount of Rs.28/- but was issued only one ticket for denomination of Rs.18/-. When the bus was checked, one ticket of Rs.10/- fell from the tray of the petitioner and it was unpunched. These facts have not been disputed at any point of time either in reply to the charge-sheet or before the Enquiry Officer. The Enquiry was conducted in keeping with the principles of natural justice and it did not get vitiated on any count. The findings of the Enquiry Officer holding the petitioner guilty have also been accepted by both the courts below.

3. The learned counsel for the petitioner contended that the punishment awarded was grossly disproportionate to the charge of misconduct proved against the petitioner who had about 12 years of service before the incident had taken place. Both the courts below have disagreed on this point and held that the punishment awarded was proper and justified. The view taken by both the courts below is in conformity with the law laid down by the Supreme Court in the case of **Regional Manager, U.P.S.R.T.C. Itawah and Ors. Vs. Hoti Lal and another, 2003 AIR SCW 801.** Under these circumstances, challenge to the concurrent view taken by both the courts below does not call for any interference under Article 227 of the Constitution of India.

4. Hence, the petition is rejected summarily.